

Cite as 2022 Ark. App. 368
ARKANSAS COURT OF APPEALS
DIVISION I
No. CR-21-486

GARY CHAMBERS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered September 28, 2022

APPEAL FROM THE CLARK
COUNTY CIRCUIT COURT
[NO. 10CR-19-150]

HONORABLE BLAKE BATSON,
JUDGE

AFFIRMED

STEPHANIE POTTER BARRETT, Judge

Gary Chambers was convicted by a Clark County jury of two counts of battery in the second degree.¹ He was sentenced to five years' incarceration on each count, with the sentences to run consecutively to each other and consecutively to the sentence he was already serving. On appeal, Chambers argues that there was insufficient evidence to support his convictions. We affirm his convictions.

A motion for directed verdict is a challenge to the sufficiency of the evidence. *Benton v. State*, 2020 Ark. App. 223, 599 S.W.3d 353. When reviewing a challenge to the sufficiency of the evidence, this court assesses the evidence in the light most favorable to the State and considers only the evidence that supports the verdict to determine if there is substantial

¹Chambers was also charged with, but acquitted of, impairing operation of a vital public facility.

evidence to support the verdict. *Id.* Substantial evidence can be direct or circumstantial, and it is evidence of sufficient force and character to compel a conclusion one way or the other, with reasonable certainty, without resorting to speculation or conjecture. *Id.* The jury determines the credibility of the witnesses, and it is free to believe all or part of any witness's testimony and may resolve questions of conflicting testimony and inconsistent evidence. *Id.*

A person commits battery in the second degree if “[t]he person knowingly, without legal justification, causes physical injury to or incapacitates a person he or she knows to be [a] law enforcement officer . . . or employee of a correctional facility while the law enforcement officer . . . or employee of a correctional facility is acting in the line of duty.” Ark. Code Ann. § 5-13-202(a)(4)(A)(i) (Supp. 2021).

The evidence at trial revealed that on August 9, 2019, Chambers was being prepared to be transported from Clark County back to prison in eastern Arkansas, over three hours away. As they were preparing for transport, Chambers asked if he would be allowed a stop to use the restroom halfway through the trip, and he was told no. Chambers argued that transportation standards required restroom breaks every hour if the trip was more than an hour and a half; said that he was not trying to be a problem; but he knew he would not make it because he had drunk coffee earlier, thinking he was going to trial that morning and would have access to a restroom. The officers told Chambers to use the restroom before they left, and Chambers told them that he had just used the restroom. One of the deputies told him that if he could not hold it, he would have to “pee in the car.” Chambers responded by saying that he was about to go without a problem, but he was thinking about giving them

“some fuc*ing problems now.” Chambers continued to explain that he has medical issues and could not go that long without having to use the restroom, and he kept offering alternative locations to use a restroom; the officers continued to ask him to “cuff up.” When Chambers did not comply, Deputy Michael Leshar, the Clark County jail administrator, pulled his pepper spray. Chambers told Deputy Leshar to spray him—he was not trying to cause problems; he just wanted the officers to work with him. Deputy Leshar continued to ask Chambers to “cuff up”; when Chambers refused, the deputies and Chambers began pushing and shoving each other. Chambers placed Deputy Leshar in a headlock, and Deputy Leshar pepper sprayed Chambers. When Chambers continued to struggle, Deputy Blaine Funderburk “drive-stunned” Chambers, who defecated on himself. Chambers eventually complied with orders to lie on his stomach and place his hands behind his back after the threat of another tasing.

Deputy Leshar testified that as a result of this incident, he had swelling and bruising to his face and ear as well as cuts on his hand and one of his legs. Deputy Funderburk testified that he sustained a scrape injury to his right shin during the altercation.

The State rested after the testimony of Deputies Leshar and Funderburk. Chambers moved for a directed verdict, arguing that there was no evidence produced to indicate that he intended to cause any harm to either deputy, that his only intent was to not get tased and not be further injured by the deputies. The circuit court denied the request for a directed verdict.

Chambers testified in his own defense, explaining that he has an enlarged prostate, and he takes high-blood-pressure and heart medications, all of which make him urinate more than usual. He stated that if he had known ahead of time, he could have taken preventative measures, but he was given only five minutes' notice that he was being transported. Chambers testified that he had no intention of causing injuries to either deputy, he was just trying to be respectful and avoid the problem of urinating in the transport vehicle. Chambers said he did not think he was fighting after he was pepper sprayed and tased.

At the close of all the evidence, Chambers renewed his directed-verdict motion, which was again denied. Chambers argued in his motion for directed verdict and now argues on appeal that there was no evidence presented that he intended to cause injury to the deputies. He asserts that he was trying to prevent urinating in a transport vehicle during a three-hour ride when he was given no advance warning he was being transported and had drunk three cups of coffee that morning.

A person acts “knowingly” with respect to “(A) The person’s conduct or the attendant circumstances when he or she is aware that his or her conduct is of that nature or that the attendant circumstances exist; or (B) A result of the person’s conduct when he or she is aware that it is practically certain that his or her conduct will cause the result.” Ark. Code Ann. § 5-2-202(2) (Repl. 2013). “Physical injury” is defined as “(A) Impairment of physical condition; (B) Infliction of substantial pain; or (C) Infliction of bruising, swelling, or a visible mark associated with physical trauma.” Ark. Code Ann. § 5-1-102 (14) (Supp. 2021).

Chambers repeatedly refused to follow orders to “cuff up”; he resisted when the deputies attempted to restrain him; a physical altercation ensued between Chambers and the deputies; Chambers put Deputy Lesher in a headlock; and both deputies suffered injuries while attempting to subdue Chambers.

A criminal defendant’s intent or state of mind is seldom apparent and ordinarily cannot be shown by direct evidence, but must be inferred from the facts and circumstances. *Bynum v. State*, 2021 Ark. App. 222. The finder of fact is allowed to draw upon common knowledge and experience to infer intent from the circumstances. *Id.* A presumption exists that a person intends the natural and probable consequences of his acts. *Id.*

Although Chambers argues that he did not intend to injure the deputies, a person acts knowingly if he is aware that it is practically certain that his or her conduct will cause the result. Chambers refused to follow the directives of the deputies who were trying to prepare him for transport, openly defying orders to “cuff up.” Chambers scuffled with the deputies for a short while, holding Deputy Lesher in a headlock, and he had to be subdued by using pepper spray and a taser. The jury was entitled to believe or disbelieve any portion of the testimony regarding the encounter. Physically fighting with the deputies to the point of having to be tased, Chambers had to know that it was practically certain that his conduct would result in injury. We hold that there is sufficient evidence to support Chambers’s battery convictions.

Affirmed.

GLADWIN and GRUBER, JJ., agree.

Dusti Standridge, for appellant.

Leslie Rutledge, Att’y Gen., by: *Kent G. Holt*, Ass’t Att’y Gen., for appellee.